

REMARKS

This responds to the Office Action mailed on June 06, 2007.

No claims are amended, no claims are canceled, and no claims are added; as a result, claims 1-3, 5-13 and 16- 41 are now pending in this application.

§103 Rejection of the Claims

Claims 1-3, 5-13 and 16-41 were rejected under 35 U.S.C. § 103(a) as being unpatentable over McClure et al. (U.S. 6,250,548, hereinafter "McClure") in view of Lemmons (U.S. Publication No. 2003/0028873, hereinafter "Lemmons").

Applicant respectfully submits that the Office Action did not make out a *prima facie* case of obviousness because even if combined, the cited references fail to teach or suggest all of the elements of Applicant's claimed invention.

Claim 1 recites:

A computer-implemented method of collecting votes from at least some of a group of voters, comprising:

 broadcasting an interactive voting application to a plurality of remote broadcast receivers from at least one of a list including a satellite uplink and a cable head-end;

 receiving from at least some of the broadcast receivers authentication information associated with one or more voters;

 authenticating the voters by comparing the received authentication information with stored authentication information associated with the voter; and

 receiving electronic ballots from the broadcast receivers, each electronic ballot comprising a set of votes inputted into the broadcast receiver by a voter using the interactive voting application, each vote being associated with a sequential identification number.

In the previous response, Applicants distinguished claim 2 from McClure. However, the current Office Action, at page 3, alleges that McClure discloses the claim feature "each vote associated with a sequential identification number." In the portion of McClure relied upon in the Office Action, it is stated:

Election officials verify the information supplied by the voter and approve the assignment of an issue number for the voter. The issue number is electronically

sent to the voter via the Internet to the address supplied by the voter and defines the proper ballot style for the voter. (Col. 36, lines 59-63)

McClure refers to approval of the issue number assigned to a voter:

The issue number printed on the ballot and subsequently read by the document scanner is used to manage the eligibility of voters. . . . This information can further be used in the precinct polling place to prohibit a voter who has voted absentee from voting on election day. When the absentee ballot 180 is produced, the name of the voter is associated with the unique number assigned by the EAS 60. . . . When the ballot is returned and the issue number read, it is matched in the EAS data with the previously stored number representing that the ballot was produced and sent out. After matching the numbers, the association with the voter is severed and the name or voter registration number of the voter is randomly stored (234) in a memory location. (Col. 33, lines 23-41)

In McClure's approval of the issue number assigned to a voter the issue number is apparently printed on the ballot and when the ballot is returned, the issue number is read and matched with the previously stored number representing that ballot, as it was produced and sent out. As such, each ballot in McClure has one issue number that identifies that ballot. In contrast, the ballot in claim 1 comprises a set of votes inputted from a voter, and each vote is associated with a sequential identification number. Thus, the claimed sequential identification number identifies each vote of a set of votes as opposed to an issue number in McClure that is assigned to a voter and identifies each ballot. Consequently the issue number in McClure is not the same as the sequential number that each of the plurality of votes on each ballot in claim 1 is associated with. Thus, McClure does not teach “*each electronic ballot comprising a set of votes inputted into the broadcast receiver by a voter using the interactive voting application, each vote being associated with a sequential identification number,*” as recited in claim 1.

Adding Lemmons to McClure fails to provide disclosure of those features of claim 1 missing from McClure. Lemmons discusses the viewer may be able to activate links to the WWW and then be enabled to cast a vote, for example, on which character the viewer liked the best during a particular television program, such as the “Survivor” series. In Lemmons, the viewer may also be able to cast vote for elections and read about their local political representatives by clicking on an interactive link (Paragraph 0047). However, Lemmons does not teach any kind of *electronic ballot comprising a set of votes each being associated with a*

sequential identification number. In other words, Lemmons does not show the feature of claim 1 calling for “*each electronic ballot comprising a set of votes inputted into the broadcast receiver by a voter using the interactive voting application, each vote being associated with a sequential identification number,*” as recited in amended claim 1.

Therefore, McClure and Lemmons, individually or in combination, fail to teach or suggest each and every element of claim 1 and thus the combination do not render the claim obvious. As such, claim 1 and its direct or indirect dependent claims 2-3, 5-13 and 16-18 are allowable and it is respectfully requested the claim rejections under 35 U.S.C. § 103(a) be withdrawn.

The same arguments as presented with respect to claim 1 are also applicable to a consideration of claims 19, 21, 27, 31, 34 and 36. As such, Applicant respectfully submits that at least for the same reasons set forth above, claims 19, 21, 27, 31, 34 and 36, and their direct or indirect dependent claims 20, 22-26, 28-30, 32-33, 35, and 37- 41 are allowable and it is requested the claim rejections under 35 U.S.C. § 103(a) be withdrawn.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at 408-278-4053 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Reservation of Rights

In the interest of clarity and brevity, Applicant may not have addressed every assertion made in the Office Action. Applicant's silence regarding any such assertion does not constitute any admission or acquiescence. Applicant reserves all rights not exercised in connection with this response, such as the right to challenge or rebut any tacit or explicit characterization of any reference or of any of the present claims, the right to challenge or rebut any asserted factual or legal basis of any of the rejections, the right to swear behind any cited reference such as provided under 37 C.F.R. § 1.131 or otherwise, or the right to assert co-ownership of any cited reference. Applicant does not admit that any of the cited references or any other references of record is relevant to the present claims, or that they constitute prior art. To the extent that any rejection or assertion is based upon the Examiner's personal knowledge, rather than any objective evidence of record as manifested by a cited prior art reference, Applicant timely objects to such reliance on Official Notice, and reserves all rights to request that the Examiner provide a reference or affidavit in support of such assertion, as required by MPEP § 2144.03. Applicant reserves all rights to pursue any canceled claims in a subsequent patent application claiming the benefit of priority of the present patent application, and to request rejoinder of any withdrawn claim, as required by MPEP § 821.04.

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

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Title: INTERACTIVE ELECTRONIC VOTING BY REMOTE BROADCASTING

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Respectfully submitted,

TIMOTHY V. TRAVAILLE

By his Representatives,

SCHWEGMAN, LUNDBERG, WOESSNER & KLUTH, P.A.
P.O. Box 2938
Minneapolis, MN 55402
408-278-4053

Date September 6, 2007

By Ali Mireshghi
Ali Mireshghi
Reg. No. 58,726

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 6 day of September 2007.

Peter Rubuffeni
Name

Peter Rubuffeni
Signature